

## **48-1601**

### **Chapter 48.--MILITIA, DEFENSE AND PUBLIC SAFETY**

#### **Article 16.--NUCLEAR ENERGY DEVELOPMENT AND RADIATION CONTROL**

**48-1601. Declaration of policy; construction of act.** It is the policy of the state of Kansas in furtherance of its responsibility to protect the public health and safety:

(a) To institute and maintain a program to permit development and utilization of sources of radiation for peaceful purposes consistent with the health and safety of the public;

(b) to institute and maintain a regulatory program for sources of radiation so as to provide for (1) compatibility with the standards and regulatory programs of the federal government; (2) an integrated, effective system of regulation within the state; and (3) a system consonant insofar as possible with those of other states; and

(c) to provide for the availability of capacity either within or outside the state for the disposal of low-level radioactive waste generated within the state, except for waste generated as a result of defense or federal research and development activities, and to recognize that such radioactive waste can be most safely and efficiently managed on a regional basis. Any state agency or institution acting as a grantee in a federal research or development program which generates low-level radioactive waste within the state shall be required to dispose of such waste in accordance with applicable state law.

The provisions of this act shall not be interpreted as limiting the intentional exposure of patients to radiation, for the purpose of diagnosis or therapy, by persons licensed to practice one or more of the healing arts within the authority granted to them by the Kansas healing arts statute, or by persons licensed to practice dentistry or podiatry within the authority granted to them by Kansas licensing laws applying to dentists and podiatrists.

**History:** L. 1963, ch. 290, § 1; L. 1972, ch. 207, § 1; L. 1984, ch. 198, § 1; July 1.

**48-1602. Purposes.** It is the purpose of this act to effectuate the policies set forth in K.S.A. 48-1601 by providing for:

(a) A program of effective regulation of sources of radiation for the protection of the public health and safety;

(b) a program to promote an orderly regulatory pattern within the state, among the states and between the federal government and the state and facilitate intergovernmental cooperation with respect to use and regulation of sources of radiation to the end that duplication of regulation may be minimized;

(c) a program to establish procedures for assumption and performance of certain regulatory responsibilities with respect to by-product, source and special nuclear materials; radiation producing devices and electronic products; and

(d) a program to permit maximum utilization of sources of radiation consistent with the health and safety of the public.

**History:** L. 1963, ch. 290, § 2; L. 1972, ch. 207, § 2; July 1.

**48-1603. Definitions.** As used in this act:

(a) "By-product material" means: (1) Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; and (2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

(b) "Department" means the Kansas department of health and environment.

(c) "Civil penalty" means any monetary penalty levied on a licensee or registrant because of violations of statutes, regulations, licenses or registration certificates, but does not include criminal penalties.

(d) "Closure" or "site closure" means all activities performed at a waste disposal site, such as stabilization and contouring, to assure that the site is in a stable condition so that only minor custodial care, surveillance and monitoring are necessary at the site following termination of licensed operation.

(e) "Decommissioning" means final operational activities at a facility to dismantle site structures, to decontaminate site surfaces and remaining structures, to stabilize and contain residual radioactive material and to carry out any other activities to prepare the site for postoperational care.

(f) "Disposal of low-level radioactive waste" means the isolation of such waste from the biosphere.

(g) "Electronic product" means any manufactured or assembled product which, when in operation, contains or acts as part of an electronic circuit and emits, or in the absence of effective shielding or other controls would emit, electronic product radiation, or any manufactured or assembled article which is intended for use as a component part, or accessory of a product described in this subsection and which in operation emits, or in the absence of effective shielding or other controls would emit, such radiation.

(h) "Electronic product radiation" means any ionizing or nonionizing, electromagnetic or particulate radiation, or any sonic, infrasonic, or ultrasonic wave, which is emitted from an electronic product as the result of the operation of an electronic circuit in such product.

(i) "General license" means a license effective pursuant to rules and regulations promulgated by the secretary of health and environment, without the filing of an application to transfer, acquire, own, possess or use quantities of, or devices or equipment utilizing by-product, source, special nuclear materials, or other radioactive material occurring naturally or produced artificially.

(j) "High-level radioactive waste" means: (1) Irradiated reactor fuel; (2) liquid wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated wastes from subsequent extraction cycles, or equivalent, in a facility for uranium processing irradiated reactor fuel; and (3) solids into which such liquid wastes have been converted.

(k) "Low-level radioactive waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel or by-product material as defined in subsection (a)(2).

(l) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, or any other state or political subdivision or agency thereof, and any legal successor, representative, agency, or agency of the foregoing, other than the United States nuclear regulatory commission, or any successor thereto, and other than federal government agencies licensed by the United States nuclear regulatory commission, or any successor thereto.

(m) "Radiation" means: (1) Ionizing radiation including gamma rays, X-rays, alpha particles, beta particles, and including neutrons; (2) any electromagnetic radiation other than ionizing radiation which is generated during the operation of an electronic product; or (3) any sonic, ultrasonic, or infrasonic wave which is emitted from an electronic product as a result of the operation of an electronic circuit in such product.

(n) "Radioactive material" means any material, solid, liquid or gas, which emits ionizing radiation spontaneously. It includes accelerator produced, by-product, naturally occurring, source and special nuclear materials.

(o) "Secretary" means the secretary of the Kansas department of health and environment.

(p) "Source material" means: (1) Uranium, thorium, or any other material which the secretary declares by order to be source material after the United States nuclear regulatory commission, or any successor thereto, has determined the material to be such; or (2) ores containing one or more of the foregoing materials, in such concentration as the secretary declares by order to be source material after the United States nuclear regulatory commission, or any successor thereto, has determined the material in such concentration to be source material.

(q) "Source material mill tailings" means the tailings or waste produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from underground solution extraction processes but not including underground ore bodies depleted by such solution extraction process.

(r) "Source material milling" means any processing of ore, including underground solution extraction of unmined ore, primarily for the purpose of extracting or concentrating uranium or thorium therefrom and which results in the production of source material mill tailings.

(s) "Sources of radiation" means, collectively, radioactive material and radiation generating equipment.

(t) "Special nuclear material" means: (1) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the secretary declares by order to be special nuclear material after the United States nuclear regulatory commission, or any successor thereto, has determined the material to be such, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(u) "Specific license" means a license issued after application, to use, manufacture, produce, transfer, receive, acquire, own or possess quantities of, or devices or equipment utilizing by-product, source, special nuclear materials, or other radioactive material occurring naturally or produced artificially.

(v) "Spent nuclear fuel" means irradiated nuclear fuel that has undergone at least one year's decay since being used as a source of energy in a power reactor. Spent nuclear fuel includes the special nuclear material, by-product material, source material and other radioactive material associated with fuel assemblies.

(w) "Transuranic waste" means radioactive waste containing alpha emitting transuranic elements, with radioactive half-lives greater than five years, in excess of 10 nanocuries per gram.

**History:** L. 1963, ch. 290, § 3; L. 1972, ch. 207, § 3; L. 1975, ch. 462, § 59; L. 1984, ch. 198, § 2; July 1.

**48-1604. Conduct of studies concerning changes in laws and regulations with a view to nuclear industrial development.** Each of the following departments and agencies of the state or their successors is directed to initiate and to pursue continuing studies as to the need for changes in the laws administered by it that would arise from the presence within the state of special nuclear, by-product and radioactive materials, from the operation in this state of production or utilization facilities, and from the generation of radiation, and, on the basis of such studies, to make such recommendations for the enactment of laws or amendments to laws

administered by it, and to propose to the secretary such rules and regulations as may appear necessary and appropriate:

- (a) The state department of commerce, particularly as to the promotion and development of the peaceful uses of atomic energy and related industries;
- (b) the state labor department, particularly as to hazardous working conditions;
- (c) the workers' compensation director, particularly as to the time and character of proof of claims of injuries and the extent of the compensation allowable therefor;
- (d) the department of transportation, particularly as to the transportation of by-product, source, special nuclear, or other radioactive materials on highways of the state;
- (e) the state corporation commission, particularly as to the transportation of by-product, source, special nuclear or other radioactive materials by common carriers not in interstate commerce and as to the participation by public utilities subject to its jurisdiction in projects looking to the development of production or utilization facilities for industrial or commercial use;
- (f) the state insurance department, particularly as to the insurance of persons and property from hazards to life and property resulting from nuclear development;
- (g) the Kansas department of wildlife and parks, particularly as to the hazards to the natural resources of the state, including wildlife;
- (h) the state geological survey, particularly as to the possibility of disposal of radioactive wastes in subterranean areas; and
- (i) such other departments and agencies as the governor may direct and for the purposes specified by the governor, and such other departments and agencies as may be provided for by law. Any conflict between the aforementioned agencies and the secretary concerning the issuance or substance of the secretary's rules and regulations shall be resolved by the governor. For the purpose of enabling the departments and agencies hereinbefore mentioned or authorized to exercise the powers and duties herein imposed or conferred, the departments and agencies may confer with technical or professional consultants as they deem necessary, and may reimburse such technical and professional personnel for the necessary and actual expenses incurred in connection with such consultations.

**History:** L. 1963, ch. 290, § 4; L. 1975, ch. 427, § 65; L. 1984, ch. 198, § 3; L. 1989, ch. 118, § 176; July 1.

**48-1606. State radiation control; duties of secretary of health and environment; fees for licenses, registrations and services.** (a) The secretary of health and environment shall be responsible for state radiation control.

(b) The secretary, for the protection of the public health and safety, shall develop programs for evaluation of hazards associated with use of sources of radiation.

(c) The secretary may:

- (1) Advise, consult and cooperate with other agencies of the state, the federal government, other states and interstate agencies, political subdivisions and with groups concerned with control of sources of radiation;
- (2) accept and administer grants or gifts, conditional or otherwise, in furtherance of its functions, from the federal government and from other sources, public or private;
- (3) collect and disseminate information relating to control of sources of radiation;
- (4) encourage, participate in, or conduct studies, investigations, training, research and demonstrations relating to control of sources of radiation;
- (5) in accordance with the laws of the state, employ, compensate and prescribe the powers and duties of such individuals as may be necessary to carry out the responsibilities set forth herein;

(6) institute training programs for the purpose of qualifying personnel to carry out the provisions of this act, and make personnel available for participation in any program or programs of the federal government, other states or interstate agencies in furtherance of the purposes of this act;

(7) fix, charge and collect fees for licenses and registrations, and renewals thereof, issued under the nuclear energy development and radiation control act to cover all or any part of the cost of administering such act; and

(8) receive any moneys in the form of grants, gifts, licensing or registration fees, or as paid under an agreement with the secretary or as reimbursement for remedial action costs.

(d) Subject to the following limitations, the secretary may assess a fee for the following categories of radiation protection services:

Fee Category:

**1. Special nuclear material**

A. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems

Maximum annual fee.....\$950

B. Any licenses not otherwise specified in this table for possession and use of special nuclear material, except licenses authorizing special nuclear material in unsealed form in combination that would constitute a critical mass

Maximum annual fee.....\$2,250

**2. Source material**

A. Licenses that authorize only the possession, use and/or installation of source material for shielding

Maximum annual fee.....\$365

B. All other source material licenses not otherwise specified in this table

Maximum annual fee.....\$5,700

**3. Radioactive or byproduct material**

A. Licenses of broad scope for possession and use of radioactive or byproduct material issued for processing or manufacturing of items containing radioactive or byproduct material for commercial distribution

Maximum annual fee.....\$10,900

B. Other licenses for possession and use of radioactive or byproduct material issued for processing or manufacturing of items containing radioactive or byproduct material for commercial distribution

Maximum annual fee.....\$3,300

C. Licenses authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources and devices containing radioactive or byproduct material. This category also includes the possession and use of source material for shielding when included on the same license

Maximum annual fee.....\$5,450

D. Licenses and approvals authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources or devices not involving processing of radioactive or byproduct material. This category also includes the possession and use of source material for shielding when included on the same license

Maximum annual fee.....\$2,350

E. Licenses for possession and use of radioactive or byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units)

Maximum annual fee.....\$1,800

- F. Licenses for possession and use of less than 10,000 curies of radioactive or byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes  
Maximum annual fee.....\$3,300
- G. Licenses for possession and use of 10,000 curies or more of radioactive or byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes  
Maximum annual fee.....\$12,050
- H. Licenses issued to distribute items containing radioactive or byproduct material that require device review to persons exempt from licensing, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from licensing  
Maximum annual fee.....\$3,000
- I. Licenses issued to distribute items containing radioactive or byproduct material or quantities of radioactive or byproduct material that do not require device review to persons exempt from licensing, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from licensing  
Maximum annual fee.....\$3,050
- J. Licenses issued to distribute items containing radioactive or byproduct material that require sealed source and/or device review to persons generally licensed, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed  
Maximum annual fee.....\$1,100
- K. Licenses issued to distribute items containing radioactive or byproduct material or quantities of radioactive or byproduct material that do not require sealed source and/or device review to persons generally licensed, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed  
Maximum annual fee.....\$700
- L. Licenses of broad scope for possession and use of radioactive or byproduct material issued for research and development that do not authorize commercial distribution  
Maximum annual fee.....\$5,900
- M. Other licenses for possession and use of radioactive or byproduct material issued for research and development that do not authorize commercial distribution  
Maximum annual fee.....\$2,800
- N. Licenses that authorize services for other licensees, except (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee category 3P; and (2) licenses that authorize waste disposal services are subject to the fees specified in fee categories 4A, 4B and 4C  
Maximum annual fee.....\$3,050
- O. Licenses for possession and use of radioactive or byproduct material for industrial radiography operations. This category also includes the possession and use of source material for shielding when authorized on the same license  
Maximum annual fee.....\$6,100
- P. All other specific radioactive or byproduct material licenses not otherwise specified in this table  
Maximum annual fee.....\$1,250
- Q. Registration of generally licensed devices or sources  
Maximum annual fee.....\$225

#### **4. Waste disposal and processing**

A. Licenses authorizing the possession and use of waste radioactive, by-product, source or special nuclear material for a commercial low-level radioactive waste disposal facility.

Maximum annual fee.....Full cost

i. Amendment to license concerning safety and environmental questions

Maximum amendment fee.....Full cost

ii. Amendment to license concerning administration questions (no safety or environment questions)

Maximum amendment fee.....Full cost

B. Licenses specifically authorizing the receipt of waste radioactive or byproduct material, source material or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material

Maximum annual fee.....\$5,150

C. Licenses specifically authorizing the receipt of prepackaged waste radioactive or byproduct material, source material or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material

Maximum annual fee.....\$3,700

#### **5. Well logging**

A. Licenses for possession and use of radioactive or byproduct material, source material and/or special nuclear material for well logging, well surveys and tracer studies other than field flooding tracer studies

Maximum annual fee.....\$2,350

B. Licenses for possession and use of radioactive or byproduct material for field flooding tracer studies

Maximum annual fee.....\$2,350

#### **6. Nuclear laundries**

A. Licenses for commercial collection and laundry of items contaminated with radioactive or byproduct material, source material or special nuclear material

Maximum annual fee.....\$11,550

#### **7. Medical licenses**

A. Licenses issued for human use of radioactive or byproduct material, source material or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license

Maximum annual fee.....\$5,500

B. Licenses of broad scope issued to medical institutions or two or more physicians authorizing research and development, including human use of radioactive or byproduct material except licenses for radioactive or byproduct material, source material or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions who also hold nuclear medicine licenses under categories 7B or 7C

Maximum annual fee.....\$12,350

C. Other license issued for human use of radioactive or byproduct material, source material and/or special nuclear material except licenses for radioactive or byproduct material, source material or special nuclear material in sealed sources contained in

teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions who also hold nuclear medicine licenses under categories 7B or 7C

Maximum annual fee.....\$2,300

#### **8. Civil defense**

A. Licenses for possession and use of radioactive or byproduct material, source material or special nuclear material for civil defense activities

Maximum annual fee.....\$650

#### **9. Device, product or sealed source safety evaluation**

A. Safety evaluation review of devices or products containing radioactive or byproduct material, source material or special nuclear material, except reactor fuel devices, for commercial distribution. This fee shall apply to each device or product

Maximum annual fee.....\$3,500

B. Safety evaluation review of devices or products containing radioactive or byproduct material, source material or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices. This fee shall apply to each device or product

Maximum annual fee.....\$3,500

C. Safety evaluation of sealed sources containing radioactive or byproduct material, source material or special nuclear material, except reactor fuel, for commercial distribution. This fee shall apply to each device or product

Maximum annual fee.....\$1,100

D. Registrations issued for the safety evaluation of sealed sources containing radioactive or byproduct material, source material or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant. This fee shall apply to each device or product

Maximum annual fee.....\$365

#### **10. Special projects**

A. Hourly rate for radiation control program activities for which there is not an established fee category or for radiation protection services provided to nonlicensees and nonregistrants

Maximum hourly rate.....\$79

#### **11. Reciprocity**

A. Licensees who conduct activities under a reciprocal agreement

Maximum annual fee.....\$750

B. Registrants who conduct activities under a reciprocal agreement

Maximum annual fee.....\$200

#### **12. X-ray machines**

A. Base registration fee per facility

Maximum annual fee.....\$200

B. Registration fee for each x-ray tube at a facility. This fee is in addition to the base registration fee

Maximum annual fee per x-ray tube.....\$50

#### **13. Accelerators**

A. Particle accelerators

Maximum annual fee.....\$300

#### **14. New license and registration applications**

A. New license and registration applications. Equal to annual fee of applicable category  
For licenses or registrations that authorize more than one activity, an annual fee shall be assessed for each of the applicable categories.



(e) The secretary shall adopt rules and regulations fixing the fees for the radiation protection services provided under this act and shall periodically increase or decrease such fees consistent with the need to cover all or any part of the cost of administering such act.

**History:** L. 1963, ch. 290, § 6; L. 1972, ch. 207, § 4; L. 1975, ch. 462, § 60; L. 1983, ch. 286, § 2; L. 1984, ch. 198, § 4; L. 2004, ch. 106, § 1; July 1.

**48-1607. Licensing, registration, possession and use of sources of radiation and records thereof.** The secretary:

(a) Shall provide by rules and regulations for general or specific licensing of by-product, source, radioactive material and special nuclear materials, or devices or equipment utilizing such materials. Such rules and regulations shall provide for amendment, suspension or revocation of licenses;

(b) shall develop programs, with due regard for compatibility with federal programs, for regulations and inspection of by-product, source and special nuclear materials;

(c) is authorized to require licensing or registration of all sources of radiation;

(d) shall prescribe rules and regulations pertaining to such sources of radiation;

(e) is authorized to exempt certain sources of radiation or kinds of uses or users from the licensing or registration requirements set forth in this section when the secretary makes a finding that the exemption of such sources of radiation or kinds of uses or users will not constitute a significant risk to the health and safety of the public;

(f) is authorized to provide for recognition of other state or federal licenses as the secretary may deem desirable, subject to such registration requirements as the secretary may prescribe;

(g) shall require each person who acquires, possesses or uses a source of radiation to maintain records relating to its receipt, storage, transfer or disposal and such other records as the secretary may require subject to such exemptions as may be provided by rules and regulations;

(h) shall require each person who acquires, possesses or uses a source of radiation to maintain appropriate records showing the radiation exposure of all individuals for whom personnel monitoring is required by rules and regulations of the secretary. Copies of these records and those required to be kept by subsection (g) of this section shall be submitted to the secretary on request. Any person possessing or using a source of radiation shall furnish to each employee, for whom personnel monitoring is required, a copy of such employee's personal exposure record annually, at any time such employee has received excessive exposure, and upon termination of employment;

(i) shall maintain a file of (1) all license applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions, revocations, and any administrative or judicial action pertaining thereto; (2) registrants possessing sources of radiation requiring registration under the provisions of this act and any administrative or judicial action pertaining thereto; and (3) all rules and regulations relating to regulation of sources of radiation, pending or promulgated, and proceedings thereon.

**History:** L. 1963, ch. 290, § 7; L. 1972, ch. 207, § 5; L. 1984, ch. 198, § 5; July 1.

**48-1608. Administrative procedure and judicial review.** (a) In any proceeding under this act for the adoption or amendment of rules and regulations relating to control of sources of radiation or for granting, suspending, revoking or amending any license, the secretary shall afford an opportunity for a hearing on the record upon the

written request of any person whose interest may be affected by the proceeding and shall admit any such person as a party to such proceeding.

In any proceeding for licensing ores processed primarily for their source material content and disposal of by-product material or source material mill tailings or for licensing disposal of low-level radioactive waste, the secretary shall provide an opportunity, after public notice, for written comments and a public hearing, and prior to any such proceeding the secretary shall prepare, for each licensed activity which has a significant impact on the human environment, a written analysis of the impact of such licensed activity on the environment. The analysis shall be available to the public before the commencement of any such hearing and shall include an assessment of the radiological and nonradiological impacts to the public health; an assessment of any impact on any waterway and groundwater; consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted and consideration of the long-term impacts, including decommissioning, decontamination and reclamation of facilities and sites associated with the licensed activities and management of any radioactive materials which will remain on the site after such decommissioning, decontamination and reclamation.

Hearings concerning a license under this act shall be in accordance with the provisions of the Kansas administrative procedure act. Procedure for other hearings authorized in this subsection shall be established by rule and regulation of the secretary.

(b) When the secretary, or any of the secretary's duly authorized agents, determines that there are reasonable grounds to believe a violation of the provisions of this act or of the rules and regulations of the secretary has occurred, the secretary shall commence a hearing on the alleged violations or issue an order thereon subject to the right of the person to whom the order is directed to make written request for a hearing within 15 days after service of the order. If a hearing is requested, such hearing shall be held within 30 days after the receipt of the request for hearing, at such time and place as is designated by the secretary. The secretary shall make a determination as to whether the act or the rules and regulations of the secretary have been violated. Hearings under this subsection shall be in accordance with the provisions of the Kansas administrative procedure act.

(c) Whenever the secretary or the director of the division of environment of the department finds that an emergency exists requiring immediate action to protect the public health and safety, an emergency order may be issued in accordance with the provisions of K.S.A. 77-536 and amendments thereto. Any person aggrieved by the issuance of any such emergency order shall be entitled to a hearing in the same manner as is provided in subsection (b).

(d) Any action of the secretary upon a hearing pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

**History:** L. 1963, ch. 290, § 8; L. 1972, ch. 207, § 6; L. 1984, ch. 198, § 6; L. 1986, ch. 318, § 72; L. 1988, ch. 356, § 161; July 1, 1989.

**48-1609. Inspection.** The secretary or the secretary's authorized representatives shall have the power to enter at all reasonable times upon any private or public property for the purpose of determining whether or not there is compliance with or violation of the provisions of this act and rules and regulations issued hereunder, except that entry into areas under the jurisdiction of the federal government shall be effected only with the concurrence of the federal government or its duly designated representative.

**History:** L. 1963, ch. 290, § 9; L. 1984, ch. 198, § 7; July 1.

**48-1610. Impounding of materials.** The secretary shall have the authority to impound or order the impounding of sources of radiation, in the possession of any person who is not equipped to observe or fails to observe the provisions of this act or any rules and regulations issued hereunder.

**History:** L. 1963, ch. 290, § 10; L. 1972, ch. 207, § 7; L. 1984, ch. 198, § 8; July 1.

**48-1611. Injunction proceedings.** Whenever, in the judgment of the secretary, any person has engaged in or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this act or any rule and regulation or order issued thereunder, the attorney general shall be empowered to make application to the district court of the county in which such acts or practices may be performed, for an order enjoining such acts or practices, or for an order directing compliance, and upon a showing by the secretary that such person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted. If the attorney general shall present a verified application for a restraining order which alleges an immediate danger to the public health and safety, such restraining order shall issue forthwith.

**History:** L. 1963, ch. 290, § 11; L. 1984, ch. 198, § 9; July 1.

**48-1612. Prohibited uses.** It shall be unlawful for any person to use, manufacture, produce, transport, transfer, distribute, sell, install, repair, receive, acquire, own or possess any source of radiation unless licensed by or registered with the secretary in accordance with the provisions of this act.

**History:** L. 1963, ch. 290, § 12; L. 1972, ch. 207, § 8; L. 1984, ch. 198, § 10; July 1.

**48-1613. Penalties.** (a) Any person who violates any of the provisions of this act or rules and regulations issued pursuant to this act, or who violates any order of the secretary issued pursuant to this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$25 nor more than \$500 or by imprisonment not to exceed six months or by both such fine and imprisonment, and in addition thereto, may be enjoined from continuing such violation. Each day of such violation shall constitute a separate violation.

(b) Any person who violates any licensing or registration provision of this act, any rule and regulation or order issued thereunder or any term condition or limitation of any license or registration certificate issued thereunder or who commits any violation for which a license or registration certificate may be revoked under rules and regulations issued pursuant to this act may be subject to a penalty, to be imposed by the secretary, not to exceed \$10,000. If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty. The secretary shall have the power to compromise, mitigate or remit such penalties. Whenever the secretary proposes to subject a person to the imposition of a civil penalty under the provisions of this section the secretary shall follow the procedures contained in subsection (b) of K.S.A. 48-1608, and amendments thereto.

Any action by the secretary pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

(c) On the request of the secretary, the attorney general is authorized to institute a civil action to collect any penalty imposed pursuant to this section. The attorney general shall have the exclusive power to compromise, mitigate or remit such civil penalties as are referred for collection.

(d) All moneys collected from civil penalties shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. Moneys collected from civil penalties shall not be used for normal operating expenses of the department except as appropriations are made from the general fund in the normal budgetary process.

**History:** L. 1963, ch. 290, § 13; L. 1984, ch. 198, § 11; L. 1986, ch. 318, § 73; L. 1988, ch. 356, § 162; L. 2001, ch. 5, § 180; July 1.

**48-1614. Trade secrets and industrial processes protected.** Any report of investigation or inspection, or any information which is a trade secret under the uniform trade secrets act (K.S.A. 60-3320 et seq. and amendments thereto) or secret industrial processes obtained by a department or agency from any person in carrying out their responsibilities under this act shall not be disclosed or opened to public inspection except as may be necessary for the performance of the functions of such department or agency. It is the affirmative duty of such person to inform such department or agency of their claim to a trade secret or secret industrial process.

**History:** L. 1963, ch. 290, § 14; L. 2005, ch. 67, § 3; July 1.

**48-1615. Inspection agreements.** The secretary is authorized to enter into, subject to the approval of the governor, an agreement or agreements with the federal government, other states or interstate agencies, whereby this state will perform on a cooperative basis with the federal government, other states or interstate agencies, inspections or other functions relating to control of sources of radiation.

**History:** L. 1963, ch. 290, § 15; L. 1972, ch. 207, § 9; L. 1984, ch. 198, § 12; July 1.

**48-1616. Federal-state agreements.** (a) The governor, on behalf of this state, is authorized to enter into agreements with the federal government providing for discontinuance of certain of the federal government's responsibilities with respect to sources of radiation and the assumption thereof by this state.

(b) Any person who, on the effective date of an agreement under subsection (a) above, possesses a license issued by the federal government shall be deemed to possess the same pursuant to a license issued under this act, which shall expire either ninety (90) days after receipt from the secretary of health and environment of a notice of expiration of such license, or on the date of expiration specified in the federal license, whichever is earlier.

**History:** L. 1963, ch. 290, § 16; L. 1972, ch. 207, § 10; L. 1975, ch. 462, § 61; July 1.

**48-1617. Effect of act on local ordinances, resolutions and regulations.** Ordinances, resolutions, or regulations, now or hereafter in effect, of the governing body of a municipality or county or board of health relating to by-product, source and special nuclear materials, radiation producing devices and electronic products shall not be superseded by this act: *Provided*, That such ordinances or regulations are and continue to be consistent with the provisions of this act, amendments thereto and rules and regulations hereunder.

**History:** L. 1963, ch. 290, § 17; L. 1972, ch. 207, § 11; July 1.

**48-1618. Invalidity of part.** If any section, subsection, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional, such decree shall not affect the validity of any remaining portion of this act.

**History:** L. 1963, ch. 290, § 18; July 1.

**48-1619. Title of act; citation.** This act shall be known and may be cited as the "nuclear energy development and radiation control act."

**History:** L. 1963, ch. 290, § 19; July 1.

**48-1620. Licensing of low-level radioactive waste disposal facility required; conditions.** The hazardous waste disposal facility approval board shall review and grant or deny final approval for each low-level radioactive waste disposal facility license in the same manner as provided in K.S.A. 65-3433 *et seq.*, and amendments thereto. The board shall not approve any such license which would permit the disposal of low-level radioactive waste below the natural level of the disposal site unless the board, subject to legislative approval, has determined that below grade disposal provides greater protection than above grade disposal for the environment and public health for the period of time for which such low-level radioactive waste may continue to pose a hazard to the environment and public health.

**History:** L. 1984, ch. 198, § 13; L. 1987, ch. 202, § 1; July 1.

**48-1621. Terms and conditions of licenses; transfer of title to state, when.**

(a) Any radioactive materials license issued or renewed after the effective date of this act for any activity which results in the production of by-product material or source material mill tailings shall contain such terms and conditions as the secretary determines to be necessary to assure that, prior to termination of such license:

(1) The licensee will comply with decontamination, decommissioning and reclamation standards prescribed by the secretary which shall be equivalent, to the extent practicable, or more stringent than those of the United States nuclear regulatory commission for sites: (A) At which ores were processed primarily for their source material content; and (B) at which such by-product material or mill tailings are deposited; and

(2) ownership of any disposal site and such by-product material or mill tailings which resulted from the licensed activity shall, subject to the provisions of subsection (b), be transferred to: (A) The United States; or (B) the state, if the state exercises the option to acquire land used for the disposal of such by-product material or mill tailings. Any license which is in effect on the effective date of this act and which is subsequently terminated without renewal shall comply with paragraphs (1) and (2) of this subsection (a) upon termination.

(b) (1) The secretary shall require by rule and regulation, or order that, prior to the termination of any license which is issued after the effective date of this act, title to the land, including any interests therein, other than land held in trust by the United States for any Indian tribe or owned by an Indian tribe subject to a restriction against alienation imposed by the United States or land already owned by the United States or by the state, which is used pursuant to such license for the disposal of by-product material or source material tailings shall be transferred to: (A) The United States; or (B) the state, unless the United States nuclear regulatory commission determines prior to such termination that transfer of title to such land and such by-product material or mill tailings is not necessary or desirable to protect the public health, safety or welfare or to minimize danger to life or property.

(2) If transfer to the state of title to such by-product material or mill tailings and land is required, the secretary shall, following the United States nuclear regulatory commission's determination that the licensee has complied with applicable standards and requirements under the license, assume title to such by-product material or mill tailings and land and maintain such by-product and mill tailings and land in such manner as will protect the public health and safety and the environment.

(3) The secretary is authorized to undertake such monitoring, maintenance and emergency measures as are necessary to protect the public health and safety for those materials and property for which custody has been assumed pursuant to this act.

(4) The transfer of title to land or by-product materials or source material mill tailings to the United States or the state shall not relieve any licensee of liability for any fraudulent or negligent acts done prior to such transfer.

(5) By-product material and mill tailings and land transferred to the United States or the state in accordance with this subsection: (A) Shall be transferred without cost to the United States or the state other than administrative and legal costs incurred by the United States or the state in carrying out such transfer; or (B) in licensing and regulation of by-product material and source material tailings or of any activity which results in the production of by-product material and such tailings, the secretary shall require compliance with applicable standards promulgated by the secretary which are equivalent, to the extent practicable, or more stringent than, standards adopted and enforced by the United States nuclear regulatory commission for the same purpose, including requirements and standards promulgated by the United States environmental protection agency.

**History:** L. 1984, ch. 198, § 14; July 1.

**48-1622. Compact negotiations authorized; site acquisitions; contracts for operation of site.** (a) The secretary is authorized to enter into negotiations for a compact with other states for the establishment and operation of a regional low-level radioactive waste disposal site which, before being put into effect, shall be ratified by the legislatures of three states and consented to by the Congress of the United States.

(b) The state is authorized to accept or acquire, by gift, transfer or purchase, from another governmental agency or private person, suitable sites including land and appurtenances for the disposal of low-level radioactive waste. Sites received by gift or transfer are subject to approval and acceptance by the legislature.

(c) Lands and appurtenances which are used for the disposal of low-level radioactive waste shall be acquired in fee simple absolute and used exclusively for such purpose, unless or until the secretary determines that such exclusive use is not required to protect the public health, safety, welfare or environment. Before such site is leased for other use, the secretary shall require and assure that the radioactive waste history of the site be recorded in the permanent land records of the site. All radioactive material accepted by the site operator or by any agent of the site operator for disposal on a radioactive waste disposal site shall become the property of the state.

(d) The state is authorized to arrange for the availability of a service for disposal of low-level radioactive waste by contract operation of a disposal site acquired pursuant to subsection (b) or already owned by the state. A contract operator shall be subject to the surety and long-term care funding provisions of this act and to appropriate licensing by the United States nuclear regulatory commission or by the secretary under K.S.A. 48-1607, and amendments thereto.

(e) The secretary shall not approve any application for a license to receive radioactive waste from other persons for disposal on land not owned by the state or federal government.

**History:** L. 1984, ch. 198, § 15; July 1.

**48-1623. Surety requirements to meet license requirements; radiation site closure and reclamation fund established; funding arrangements for long-term care; radiation long-term care fund established; contracts for care and decommissioning services.** (a) For licensed activities involving source material milling, source material mill tailings and disposal of low-level radioactive waste, the secretary shall, and for other classes of licensed activity involving low-level radioactive material, the secretary may establish by rule and regulation standards

and procedures to ensure that the licensee will provide an adequate surety or other financial arrangement to permit the completion of all requirements established by the secretary for the decontamination, closure, decommissioning and reclamation of site, structures and equipment used in conjunction with such licensed activity, in case the licensee should default for any reason in performing such requirements.

(b) All sureties required pursuant to subsection (a) which are forfeited shall be paid to the secretary, who shall remit such moneys to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of a special fund called the radiation site closure and reclamation fund which is hereby established. All moneys in this fund are hereby appropriated and may be expended by the secretary as necessary to complete such requirements on which licensees have defaulted. Moneys in this fund shall not be used for normal operating expenses of the secretary or the department.

(c) For license activities involving the disposal of source material, mill tailings and disposal of low-level radioactive waste, the secretary shall, and for other classes of licensed activity when low-level radioactive material which will require surveillance or care is likely to remain at the site after the licensed activities cease the secretary may, establish by rule and regulation standards and procedures to ensure that the licensee, before termination of the license, will make available such funding arrangements as may be necessary to provide for long-term site surveillance and care.

(d) All funds collected from licensees pursuant to subsection (c) shall be paid to the secretary who shall remit such funds to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of a special fund called the radiation long-term care fund which is hereby established. All funds accrued as interest on moneys deposited in this fund are hereby appropriated and may be expended by the secretary for continuing long-term surveillance maintenance and other care of facilities from which such funds are collected as necessary for protection of the public health, safety and environment. Notwithstanding any other provision of this subsection, if title to and custody of any radioactive material and its disposal site are transferred to the United States upon termination of any license for which funds have been collected for such long-term care, the collected funds and interest accrued thereon shall be transferred to the United States.

(e) The sureties or other financial arrangement and funds required by subsections (a) and (b) shall be established in amounts sufficient to ensure compliance with those standards, if any, established by the United States nuclear regulatory commission pertaining to decontamination, closure, decommissioning, reclamation and long-term site surveillance and care of such facilities and sites.

(f) In order to provide for the proper care and surveillance of sites subject to subsection (c) of this section which are not subject to K.S.A. 48-1620 or 48-1621, and amendments thereto, the state may acquire by gift or transfer from other governmental agencies or private persons, any land and appurtenances necessary to fulfill the purposes of this section. Any such gift or transfer is subject to approval and acceptance by the state legislature.

(g) The secretary may provide by contract, agreement, lease or license with any person, including another state agency, for the decontamination, closure, decommissioning, reclamation, surveillance or other care of a site subject to this section as needed to carry out the purposes of this section.

(h) In the event a person licensed by any governmental agency, other than the secretary, desires to transfer a site to the state for the purpose of administering or providing long-term care, a lump sum deposit shall be made to the radiation long-term care fund. The amount of such deposit shall be determined by the secretary taking into account the factors stated in subsections (c) and (e) of this section.

(i) All state, local or other governmental agencies, shall be exempt from the requirements of subsections (a) and (c).

**History:** L. 1984, ch. 198, § 16; L. 2001, ch. 5, § 181; July 1.

**48-1624. Inspection agreements; training programs.** (a) The secretary is authorized to enter into an agreement or agreements with the United States nuclear regulatory commission pursuant to section 274(c) of the atomic energy act of 1954, as amended, other federal agencies, as authorized by law, other states or interstate agencies, whereby this state will perform on a cooperative basis with the commission, other federal governmental agencies, other state or interstate agencies, inspections or other functions relating to control of sources of radiation.

(b) The secretary may institute training programs for the purpose of qualifying personnel to carry out the provisions of this act, and may make such personnel available for participation in any program or programs of the federal government, other states or interstate agencies in furtherance of the purposes of this act.

**History:** L. 1984, ch. 198, § 17; July 1.

**48-1625. Radiation control operations fee fund created; expenditures.** (a) There is hereby created in the state treasury the radiation control operations fee fund to administer the provisions of K.S.A. 48-1601 through 48-1624, and amendments thereto. Such fund shall be administered by the secretary of health and environment in accordance with the provisions of this section.

(b) Revenue from the following sources shall be deposited in the state treasury and credited to the radiation control operations fee fund:

(1) Fees collected for licenses and registrations, and renewals thereof, issued under the nuclear energy development and radiation control act;

(2) reimbursement for administrative, inspection, radioactive material disposal, investigation and remedial action expenses;

(3) excluding civil penalties, moneys paid pursuant to any agreement, stipulation or settlement;

(4) grants, gifts, bequests or state appropriations for the purposes of K.S.A. 48-1601 through 48-1624, and amendments thereto; and

(5) interest attributable to investment of moneys in the fund.

Moneys described in this subsection which are received by the secretary shall be remitted by the secretary to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance the state treasurer shall deposit the entire amount in the state treasury to the credit of such fund.

The secretary of health and environment is authorized to receive from the federal government or any of its agencies or from any private or governmental source any funds made available for the purposes of K.S.A. 48-1601 through 48-1624, and amendments thereto.

(c) The secretary is authorized to use moneys from the radiation control operations fee fund to pay the cost of:

(1) All activities related to licensing and registration, including but not limited to, development and issuance of licenses, registrations and renewals thereof, compliance monitoring, inspections, long term monitoring and enforcement actions and decontamination, decommissioning, reclamation or remedial actions;



- (2) design and review of radioactive waste disposal facilities;
- (3) review and witnessing of test and repair procedures;
- (4) investigation of violations, complaints, pollution and events affecting the environment or public health;
- (5) design and review of remedial action plans;
- (6) personnel training programs;
- (7) contracting for services needed to supplement the department's staff expertise in administering the provisions of K.S.A. 48-1601 through 48-1624, and amendments thereto;
- (8) staff consultation needed to provide radiation protection services provided under this act;
- (9) mitigation of adverse environmental or public health impacts, including impounding sources of radiation;
- (10) emergency or long-term remedial activities;
- (11) administrative, technical and legal costs incurred by the secretary in administering the provisions of K.S.A. 48-1601 through 48-1624, and amendments thereto; and
- (12) costs of program administration, including the state's share of any grant received from the federal government or from other sources, public or private.

(d) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the radiation control operations fee fund interest earnings based on:

- (1) The average daily balance of moneys in the radiation control operations fee fund for the preceding month; and
- (2) the net earnings rate of the pooled money investment portfolio for the preceding months.

(e) All expenditures from this fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment for the purposes set forth in this section.

(f) Any appropriation of state general fund moneys for the fiscal year ending June 30, 2005, to pay costs described in subsection (c) shall be repaid to the state general fund from the radiation control operations fee fund. On and after July 1, 2005, as moneys are available, but not later than June 30, 2007, the director of accounts and reports shall transfer moneys from the radiation control operations fee fund to the state general fund to repay such moneys.

**History:** L. 2004, ch. 106, § 2; July 1.